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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/127,341	07/31/1998	MICHAEL DEADDIO	11021.0001	9998

7590 01/30/2006

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EXAMINER

FELTEN, DANIEL S

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 01/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/127,341

Applicant(s)

DEADDIO ET AL.

Examiner

Daniel S. Felten

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-23 and 25-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-23 and 25-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Receipt of the response filed November 10, 2005 is acknowledged. No amendments have been made. Claims 21-23 and 25-33 remain pending in the application and are presented to be examined upon their merits.

Response to Arguments

1. Applicant's arguments filed November 10, 2005 have been fully considered but they are not persuasive. References in determining obviousness are not read in isolation but for what they fairly teach in combination with prior art as a whole, and thus patent assignee's reference-by-reference attack on prior art to demonstrate non-obviousness is not persuasive. (Photoelectric sensing system) Banner engineering v. Tri tronics. Co. Inc., 29 USPQ 1392 1389 (CAFC 1993 unpub) citing in re Merck, 231 USPQ 375 (CAFC 1986).

References are evaluated by what they suggest to one versed in the art, rather than their specific disclosure [see In re Bozek, 163 USPQ 545 (CCPA 1969)]. In this case, the primary references, Marshall, shows a method for processing financial instruments comprising a representation (metaphors or cards) of the instrument and at least one processor (see modules), wherein said at least one processor performs said processing by acting upon said representation , and wherein the representation is specified separately from at least one processor, the secondary reference, Garman, discloses the representation of the instrument is specified independently from at least one processor (Garman, see CPU, col. 3, ll. 31-65). The 35 USC § 103 rejection set forth above provide reasoning for the combinations of references and resolve the level of ordinary skill in the art. It is respectfully submitted that one cannot show non-obviousness by attacking

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references individually where, as here, the rejections are based on combinations of references.

The deficiencies of the primary reference where addressed in the office action dated May 01, 2005 addressing the issue set forth above where one of ordinary skill in the art at the time of the invention would have considered DerivaTool as an art recognized equivalent to the metaphors of Marshall in as much as the metaphors and DerivaTool use simulators to easily convey and manipulate complex details of financial instruments. Also, an artisan at the time of the invention would be motivated to integrate the sequence of events described in the scenario portion of DerivaTool into one or more of the virtual graphic characteristics described by Marshall, because it would be easier to view complex financial details (numbers) in a graphic (or pictorial/ virtual) form (see Marshal, col. 3, 11. 36-41). Thus the 35 USC 103(a) rejections are maintained.

Conclusion

2. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel S. Felten whose telephone number is (571) 272-6742. The examiner can normally be reached on Flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Daniel S Felten
Examiner
Art Unit 3624

DSF
January 20, 2006

VINCENT MILLIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

